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26 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
27 SAN FRANCISCO DIVISION

28 AMERICAN FEDERATION OF  
29 GOVERNMENT EMPLOYEES, AFL-CIO,  
30 et al.,

31 Plaintiffs,

32 v.  
33 DONALD J. TRUMP, in his official capacity  
34 as President of the United States, et al.,

35 Defendants.

36 Case No. 3:25-cv-03698-SI

37 **PLAINTIFFS' MOTION TO SHORTEN  
38 TIME FOR DEFENDANTS TO RESPOND  
39 TO REQUEST FOR PRODUCTION**

40 **(LOCAL RULE 6-3)**

## INTRODUCTION

Plaintiffs respectfully move for an order shortening Defendants' time to respond to a single targeted discovery request for communications between Federal Agency Defendants and Defendants Office of Management and Budget ("OMB"), Office of Personnel Management ("OPM"), or Department of Government Efficiency ("DOGE") regarding Agency RIF and Reorganization Plans ("ARRPs") that provide essential evidence regarding the legality of decision-making and implementation of the ARRPs at issue in this case. *See* Local Rule 6-3. This request supplements this Court's prior expedited discovery order requiring Defendants to produce the ARRPs (and RIF-notice waivers or approvals (ECF 85)) that is pending before this Court for confirmation (ECF 177). Given the imminence of Defendants' actions to implement these ARRPs and the centrality of these communications to the contested legality of these actions, Plaintiffs request that Defendants be required to respond to Plaintiffs' request for all communications between Federal Agency Defendants and OMB, OPM, or DOGE regarding the ARRPs by July 25, 2025, including by producing all documents as to which no objection is asserted. This would shorten Defendants' time to respond from the usual thirty (30) to fourteen (14) days.

There is good cause to shorten the deadline, because these documents are highly relevant to the claims that the Supreme Court’s recent stay order expressly leaves open: the “legality of any Agency RIF and Reorganization Plan produced or approved pursuant to the Executive Order and Memorandum.” *See Trump v. AFGE*, 2025 WL 1873449, 606 U.S. \_\_\_\_ (July 8, 2025). There is no dispute that Defendants intend to immediately resume the large-scale RIFs and reorganizations that were previously enjoined and that are the subject of Plaintiffs’ claims challenging the ARRPs. The forthcoming RIFs and reorganizations will cause irreparable harm to Plaintiffs, and Plaintiffs intend to expeditiously seek further interim relief as is warranted by the facts, circumstances, and law. Good cause exists to shorten the time to respond to this discovery request, which will permit the parties and the Court to evaluate the facts and legal issues that Defendants continue to contest.

Consistent with Rule 34, the Court’s order should make clear that any documents as to which no objection is raised must be produced by this deadline. *See Fed. R. Civ. P. 34(b)(2)(A), (B).* Plaintiffs also respectfully request that in light of the exigent circumstances of this case, to the

1 extent that Defendants intend to raise any categorical objections, they should be required to  
 2 identify the bases for such objections in their response to this motion, so that such issues may be  
 3 resolved in advance of the deadline. Further, the Court should make clear that Defendants' Rule 34  
 4 response must include a privilege log for any documents for which Defendants assert privilege.

## 5 BACKGROUND

6 The Supreme Court's July 8, 2025 order, which stayed the prior preliminary injunction  
 7 issued with respect to Plaintiffs' separation of powers challenges to the EO and OMB/OPM  
 8 Memorandum, explicitly "express[ed] no view on the legality of any Agency RIF and  
 9 Reorganization Plan produced or approved pursuant to the Executive Order and Memorandum." S.  
 10 Ct. Order at 1. Justice Sotomayor's concurrence noted that the Supreme Court's decision leaves  
 11 this Court to "consider ... in the first instance" whether the agencies' ARRPs "can and will be  
 12 carried out consistent with the constraints of law." *Id.* (Sotomayor, J., conc.).

13 On July 9, 2025, Plaintiffs requested that the Court confirm its prior order granting  
 14 expedited discovery with respect to Federal Agency Defendants' ARRPs and deny Defendants'  
 15 request for reconsideration and protective order. ECF 176 at 1. The Court ordered Defendants to  
 16 respond to Plaintiffs' request by Monday, July 14. ECF 177.

17 That prior order granted expedited discovery requiring production of four types of  
 18 documents. ECF 85 (ARRPs submitted to or approved by OMB/OPM; agency applications for  
 19 waivers of statutorily-mandated RIF notice periods; and OMB/OPM's responses). Plaintiffs' fact  
 20 development and investigation has shown that OMB and OPM have provided written responses to  
 21 at least some ARRP submissions, and engaged in other communications regarding those  
 22 submissions in conjunction with OMB/OPM's "approval" process. *E.g.*, ECF 36, Ex. 1  
 23 ("Reviewers from [OMB] recently deemed the [NLRB's] rationale for avoiding layoffs inadequate.  
 24 'Without more, the agency cannot fully exempt itself from further staff reductions,' OMB staff said  
 25 in a response to the NLRB. The memo urged the labor board to 'think creatively' about how to use  
 26 a set of tactics, including layoffs, to reduce headcount."); ECF 37-12 ¶24 (OMB rejected  
 27 AmeriCorps ARRP for not including RIF); ECF 37-32 ¶¶8-14 (NSF); ECF 96-1 ¶¶15-20 (same);  
 28 ECF 96-1 ¶¶6-13, Ex. 1 at 4-6 & Atts. D, I. (non-party NEH). And as this Court has recognized

1 during its review of Defendants' assertion of deliberative process privilege, Defendants continue to  
 2 contest the most basic facts regarding these ARRPs, including whether OMB/OPM are approving  
 3 these agency proposals at all (and if not, then "pursuant to what, then, are the agencies  
 4 implementing their large-scale RIFs?") (ECF 109 at 2).

5 On July 10, 2025, Plaintiffs provided Defendants advance notice of a Rule 34 request for  
 6 production of documents, invoking their Rule 26(d)(2) right to serve early Rule 34 requests that  
 7 would be deemed served as of a Rule 26(f) conference. Chisholm Decl. ¶2. That request was  
 8 deemed served on Defendants today, July 11, 2025, as of the parties' Rule 26(f) conference. *See id.*  
 9 ¶4; Fed. R. Civ. P. 26(d)(2)(b). Plaintiffs' Request No. 1 seeks:

10 All communications between any Federal Agency Defendant and OMB, OPM, or  
 11 DOGE discussing any Agency RIF and Reorganization Plan ("ARRP") (in whole or  
 12 any part), including but not limited to any approvals or disapprovals of those Plans  
 13 (in whole or any part, formally or informally) and any discussion of whether the  
 14 contents of those Plans meets or do not meet expectations, communicated by OMB,  
 15 OPM, or DOGE to any Federal Agency Defendant, from February 26, 2025 to the  
 16 present.

17 Chisholm Decl., Ex. A. In light of Defendants' imminent intent to implement the ARRPs, Plaintiffs  
 18 requested that Defendants stipulate to answering this request within two weeks. *Id.*, Ex. B.  
 19 Defendants declined to stipulate to an expedited response time. *Id.* ¶4

## ARGUMENT

20 There is good cause to shorten the response time for Request No. 1. The requested  
 21 communications between Federal Agency Defendants and OMB, OPM, and DOGE regarding  
 22 ARRPs are directly relevant and important to Plaintiffs' claims challenging the legality of  
 23 OMB/OPM and Federal Agency Defendants' approval and implementation of ARRPs (including,  
 24 as Plaintiffs contend, as directed by OMB/OPM/DOGE with respect to timing and content).

25 As this Court has recognized, Defendants contest essential facts relevant to these claims,  
 26 including which agency/agencies have made the actual decisions at issue regarding the content and  
 27 implementation of the ARRPs (ECF 109). They have repeatedly tried to shield their actions from  
 28 review by blocking public access to the ARRPs submitted or approved by OMB/OPM and basic  
 information about decisions regarding the ARRPs' content and implementation. *See ECF 109 at 1-*

1       2. They continue to contend that OMB/OPM are not approving or disapproving, or not *formally*  
 2       approving or disapproving, ARRPs. *Id.* That is inconsistent with the record, which establishes that  
 3       agencies were already implementing, or were poised to implement, their ARRPs, including through  
 4       large-scale RIFs, and that the OMB/OPM Memorandum does not allow agencies to begin such  
 5       implementation until the ARRPs are approved by OMB and OPM. ECF 100-2 at 3–4; *see also id.*  
 6       at 6 (prohibiting implementation of ARRPs for agencies that provide direct services until specific  
 7       OMB/OPM certification). As this Court found, OMB/OPM approval is a “necessary triggering  
 8       step” in agencies’ RIF and reorganization processes. ECF 124 at 36. Given these established facts,  
 9       the communications between the agencies and OMB/OPM will with certainty provide relevant  
 10      evidence regarding the actions, and the legality of those actions, here at issue.

11           Further, the factual record regarding Defendants’ actions establishes that there are  
 12      substantial communications between OMB/OPM/DOGE and the agencies regarding the content,  
 13      timing, and decision-making with respect to agencies’ ARRPs. *See* ECF 124 at 36-37 (citing ECF  
 14      36, Ex. 1 (OMB/OPM returned NLRB’s proposed ARRP with notations that the cuts did not “meet  
 15      expectations” and ordered resubmission of plan with greater cuts)); ECF 96-1 ¶¶8-14 (OMB, OPM,  
 16      and DOGE rejected NSF’s phase 1 ARRP that lacked large-scale RIFs and directed large-scale  
 17      RIFs instead); ECF 37-12 ¶24-25 (OMB rejected AmeriCorps’ mid-March ARRP that did not  
 18      recommend RIFs and Americorps implemented large-scale RIFs shortly thereafter).

19           Therefore, communications between OMB/OPM/DOGE and the Federal Defendant  
 20      Agencies regarding the ARRPs will shed light on OPM/OMB/DOGE’s orders and directives to  
 21      agencies that may constitute approval or rejection (whether formal or informal) of all defendant  
 22      agencies’ ARRPs, as well as the reasons and bases for Federal Agency Defendants’ actions in  
 23      creating, modifying, and implementing ARRPs. Those communications are therefore highly  
 24      relevant to the lawfulness of the ARRPs, including the question whether Defendants have exceeded  
 25      authority or acted contrary to law, or are “engag[ing] in reasoned decisionmaking.” *Dep’t of*  
 26      *Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 16 (2020) (cleaned up). Any evaluation  
 27      of Plaintiffs’ claims without these communications would be based on an incomplete picture of  
 28      Defendants’ decision-making.

1 These communications should be produced immediately because Defendants' massive RIFs  
2 of employees pursuant to the ARRPs are indisputably imminent. *See* ECF 177 at 2 ("about 40 RIFs  
3 in 17 agencies" are planned in the near future); ECF 176 at 9 & n.5.<sup>1</sup> The irreparable harm that  
4 Plaintiffs face from the RIFs is well documented. ECF 124 at 44-45; ECF 37-1 at 14-28. Plaintiffs  
5 intend to move for further interim injunctive relief as appropriate, consistent with the record and  
6 the Supreme Court's order. The timing of any such motion will be determined by the exigency of  
7 the circumstances, the information available to Plaintiffs, and the legality of Defendants' imminent  
8 actions. Regardless of that motion's timing, the swift production of these communications will  
9 further the Court and the parties' ability to evaluate the important issues raised by this case that  
10 indisputably survive the Supreme Court's stay, by the Supreme Court's own express direction.

11 Rule 34(b)(2)(B) requires that “production must then be completed no later than the time  
12 for inspection specified in the request or another reasonable time specified in the response.” Given  
13 Defendants’ imminent implementation of ARRPs, Plaintiffs have proposed a reasonable time  
14 period of two weeks to permit Defendants the time to collect and produce documents and prepare a  
15 privilege log. Under these exigent circumstances, there is no other “reasonable time” for  
16 production. Plaintiffs thus request that, consistent with Rule 34(b)(2)(B), the Court require that any  
17 documents for which no objection is asserted be produced at the time of Defendants’ written  
18 response to Request No. 1. And to the extent Defendants have categorical objections to production  
19 of documents, Plaintiffs request that the Court order Defendants to identify those objections in their  
20 opposition to this motion, to facilitate the parties and Court efficiently addressing those disputes.<sup>2</sup>

## CONCLUSION

22 For the above reasons, Plaintiffs request that the Court order Defendants to respond to  
23 Request No. 1 by July 25, 2025, including by producing any responsive documents for which a  
24 objection is not asserted and providing a privilege log. Plaintiffs also request the Court order  
25 Defendants to identify any categorical objections to production in their opposition to this motion.

<sup>27</sup> <sup>1</sup> See State Dep’t to begin layoffs in effort to downsize government, Wash. Post (July 10, 2025), <https://www.washingtonpost.com/politics/2025/07/10/state-department-layoffs-federal-employees>.

<sup>2</sup> Plaintiffs are available to meet and confer about any such categorical objections at any time before Defendants file their response.

1 DATED: July 11, 2025

Respectfully submitted,

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